

# The Trustee toolkit downloadable

## Funding your DB scheme

### Scenario three

In this scenario you and your fellow trustees have to deal with a complaint from a former member who considers that he has lost out as the result of a bulk transfer.

You also discuss two queries from members about paying additional employee contributions outside of the DB scheme.

As you work through this scenario you will be tested on your knowledge at decision points. Here you will have the option to work through a related technical tutorial before returning to the scenario or you can skip the tutorial. You can always work through the tutorial separately later if you would prefer. This scenario includes two tutorials:

- ▶ Individual and bulk transfers
- ▶ Additional employee funding

#### Glossary

A detailed glossary of technical terms can be downloaded from the Resources tab when you log in at [www.trusteetoolkit.com](http://www.trusteetoolkit.com)

## A member complains

Tony has emailed you the agenda for the next meeting, along with several attached documents.

### Agenda

1. Minutes from last meeting.
2. Matters arising.
3. Member's complaint.
4. The DC section.
5. AOB.

The email says: "Hi, I just wanted to say don't worry if you don't understand the complaint letter from Nick Froggett - it is a bit long and rambling. Basically, it relates to the time we sold off part of the business a couple of years ago to Links Ltd. He's complaining that he was misled into transferring his benefits."

## Transfer traumas

You've reached item three on the agenda. You have all read the complaint letter from Nick Froggett. John says: "So, can I just get this clear? When we sold part of the business to Links Ltd, there was a bulk transfer of benefits. Now Links are insolvent and their scheme can't pay out the benefits due. And Mr Froggett is complaining that he didn't give his consent to the transfer in the first place. That's rather serious isn't it?"



Charlotte replies: "To be accurate, he says he has no recollection of consenting, and that if he did, he was not warned of the implications. But I assume, Tony, that he must have consented."

Tony answers: "I've checked this. He did consent to the bulk transfer - as did most people. And I'm surprised he doesn't remember, as we had a meeting with all the members concerned to make it clear to them if they did consent, they would be treated as if they had continuous pensionable service."

John asks: "But was he warned about possible risks? And are you absolutely sure he as an individual gave his consent?"

Tony says: “Yes I am. I have his consent form here. I can assure you John, we went through all the proper procedures. As for risks, we took them into account at the time of the transfer. What’s more, we pointed out that we couldn’t give individual financial advice and we suggested members talked to the Financial Conduct Authority (FCA) if they wanted more help.”

Charlotte says: “He may at least get Pension Protection Fund (PPF) benefits, but of course this means he’ll only get 90% of his original entitlement. It is very unfortunate, but I agree, Tony, we went through all the proper procedures at the time.”



**Decision point: Is the complaint justified?**

You are all very concerned about Mr Froggett’s complaint and discuss it at length. You come to various conclusions. Which one of the following provides the best justification of the trustees’ current position?

1. As trustees, we are still responsible for the benefits that this member accrued while he was still in our scheme
2. We ensured that sufficient funds were transferred to the Links scheme for each member, and we took advice about the funding position of the Links scheme at that time, we couldn’t have done any more
3. We had no part in the negotiations for that sale and it was the MD who decided on the terms of the sale and of the transfer. We did all we could, and there are no further obligations on us

[Answers at the back](#)



Need help with this question? [Read the Tutorial ‘Individual and bulk transfers’](#)

## The DC section

For the next item on the agenda, Charlotte focuses on the additional voluntary contribution (AVC) scheme for members in the DB scheme. She says: “As most of you know, since April 2006, the members have had the opportunity to run an additional personal pension alongside the defined benefit scheme. We kept the additional voluntary contributions (AVC) scheme open after 2006 for DB scheme members to make additional contributions if they want to.”

“I think we need to spend more time discussing DC matters, so at this meeting we will consider the AVC scheme. We already have a meeting scheduled to assess the DC scheme against the standards in The Pensions Regulator’s DC code, including the legislative governance standards.”

## Queries from members

Tony and Alicia both have questions. Tony says: “We’ve had an enquiry from a DB scheme member who wants to join the AVC scheme and isn’t sure how much she can contribute.”

Alicia adds: “Actually I’ve got a related query too. A member who’s just joined the company wants to know if, once she’s joined the DC scheme, she has to put her personal pension on hold.”



### Decision point: Additional employee funding

The discussion regarding these two enquiries continues. Which two of the following statements from around the table do you agree with?

Alicia: “I thought we had to close the AVC scheme in 2006 when the new rules came in.”

John: “Schemes had to maintain its AVC arrangements in respect of benefits already acquired, however whether the AVC had to be maintained for future contributions was dependent on the scheme rules.”

Rodney: “There are no limits on the benefits which members can accrue, although there are tax charges if certain annual and lifetime limits are breached. So the member can contribute whatever she likes to the AVC.”

Tony: “The new member can’t have three pensions, so she will have to choose between the AVC and her own personal pension.”

[Answers at the back](#)



Need help with this question? [Read the Tutorial ‘Additional employee funding’](#)

## The outcome

After a lot of discussion regarding these two queries, the trustees come to a conclusion. Alicia says: “As you say Charlotte, there does seem to still be some confusion amongst members about what they can contribute to and the differences between the schemes. We’ve agreed that I will take the action to review the member communications and scheme booklet with John to make sure the options are clear for all members. We’ll report our recommendations to the board at the next meeting.”

## Rounding up

You dealt with a complaint from a member concerning a bulk transfer. To do this you had to consider the responsibilities and duties of trustees to the members when part of a business is sold.

You considered the two queries from members and agreed to review the member communications to make sure the options regarding the AVC scheme were clear.

Now that you have completed this scenario we would recommend that you begin to work through the 'Check your scheme' worksheet for this module.

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## Answers

### Decision point: Is the complaint justified?

The second statement is correct.

The trustees of the existing scheme are required to ensure that their remaining members are in as good a position after the other members have transferred out as they were before. If this means that there is not enough money to cover the liabilities of the transferring members then it is for the buyer and seller to ensure the trustees of both schemes are able to agree the transfers, if they wish the bulk transfer to proceed. This may involve the buyer making up the difference in the new scheme, which in turn is likely to be reflected in the purchase price.

In any event, you and your fellow trustees satisfied yourselves that enough money was transferred to the Links scheme to cover the liabilities for all the transferring members and you took advice about the Links scheme's funding position.

### Decision point: Additional employee funding

John and Rodney were right.

It isn't true that schemes had to close their AVC facilities when the rules changed in 2006. John is right that arrangements had to be maintained in respect of benefits already required but whether they had to remain open for future contributions was dependent on the scheme rules.

Tony is also wrong, members are free to run as many pensions as they like alongside being members of the DB scheme. There are also no limits on benefits that can be accrued but Rodney is right to point out that there are annual and lifetime thresholds which, if breached, incur significant tax charges.